

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICHARD COURTEMANCHE,

Plaintiff,

Case No. 1:12-cv-841

v

HON. JANET T. NEFF

RICHARD CZOP, et al.,

Defendants.

/

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. On December 10, 2012, Plaintiff filed a motion for preliminary injunction, requesting that this Court enjoin the Michigan Department of Corrections (MDOC) from transferring Plaintiff to a lower security facility (Dkt 12). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that this Court deny Plaintiff's motion. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff raises three objections to the Magistrate Judge's Report and Recommendation. First, Plaintiff claims that the Magistrate Judge erred in stating that he must establish a likelihood of success on the merits (Objs., Dkt 19 at 1). However, the Magistrate Judge did not misstate this

first factor of the applicable four-factor analysis (R&R, Dkt 15 at 2, citing *Samuel v. Herrick Mem'l Hosp.*, 201 F.3d 830, 833 (6th Cir. 2000)). Therefore, this objection is denied.

Second, Plaintiff emphasizes that “[h]is transfer has resulted in significant harm,” and he delineates examples of the resulting harm he perceives, such as the loss of his employment (Dkt 19 at 1). This objection is also denied. While Plaintiff may disagree with the manner in which the Magistrate Judge weighed the second factor for injunctive relief—“whether the movant would suffer irreparable injury if the court does not grant the injunction,” Plaintiff has not demonstrated any legal or factual error by the Magistrate Judge. Rather, the Magistrate Judge properly determined that any inconvenience to Plaintiff would not significantly impair or prejudice his ability to prosecute his claims and therefore “is not a proper basis for granting the relief sought” (R&R, Dkt 15 at 2-3). *See, e.g., Henry v. City of Eastpointe Police Dep't*, No. 2:11-cv-10192, 2012 WL 3151566, at *2 (E.D. Mich. July 13, 2012) (Report & Recommendation) (“The mere fact that plaintiff’s transfer may make it harder for him to prosecute this litigation is not the type of irreparable harm justifying the issuance of a preliminary injunction”), adopted by 2012 WL 3149103 (E.D. Mich. Aug. 2, 2012).

Last, Plaintiff objects to the Magistrate Judge’s analysis of the public interest factor, specifically, the Magistrate Judge’s conclusion that the public interest would not be served by judicial interference in the day-to-day operations of a correctional facility (Objs., Dkt 19 at 2). According to Plaintiff, his transfer is not a “day-to-day operation” but retaliation for his filing of this lawsuit (*id.*). This objection is also without merit. The decision to transfer prisoners is part of the MDOC’s daily operations, as evidenced by Plaintiff’s attachment of MDOC policies governing transfers, and the Magistrate Judge did not err in the weight she assigned to this factor in her analysis. *See generally Bell v. Wolfish*, 441 U.S. 520, 562 (1979) (explaining that “the inquiry of

federal courts into prison management must be limited to the issue of whether a particular system violates any prohibition of the Constitution or, in the case of a federal prison, a statute”).

Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Therefore:

IT IS HEREBY ORDERED that the Objections (Dkt 19) are DENIED and the Report and Recommendation (Dkt 15) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Preliminary Injunction (Dkt 12) is DENIED.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of this decision would not be taken in good faith.

Dated: April 29, 2013

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge